

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA**

In re:

MERCY HOSPITAL, IOWA CITY,
IOWA, *et al.*,

Debtors.

Chapter 11

Case No. 23-00623 (TJC)

Jointly Administered

**AGREED MOTION OF THE DEBTORS AND CREDITORS HUMANA, INC. AND
HUMANA INSURANCE COMPANY FOR ENTRY OF AGREED ORDER
DEEMING TIMELY CERTAIN LATE-FILED PROOFS OF CLAIM**

Mercy Hospital, Iowa City, Iowa and certain of its affiliates as debtors and debtors-in-possession (collectively, the “Debtors”) hereby move (the “Motion”) the Court for the entry of an agreed order substantially in the form attached as **Exhibit A** hereto (the “Proposed Order”) deeming timely filed certain late-filed proofs of claim of Humana, Inc. Humana Insurance Company and their affiliates (each Humana entity referred to collectively as “Humana”), and in support respectfully state as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334.
2. This is core proceeding pursuant to 28 U.S.C. § 157(b).
3. Venue is proper pursuant to 28 U.S.C. §§ 1408–1409.
4. The statutory bases for the relief requested are sections 105(a) and 502 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”), and Rules 3002, 3003, and 9019 of the Federal Rules of Bankruptcy Procedures (the “Bankruptcy Rules”).

BACKGROUND

I. The Chapter 11 Cases

5. On August 7, 2023 (the “Petition Date”), the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

6. The Debtors continue to operate their business and manage their properties as debtors and debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

7. On August 15, 2023, the Office of the United States Trustee (the “U.S. Trustee”) appointed a creditors’ committee (the “Creditors’ Committee”) pursuant to section 1102(a) of the Bankruptcy Code. No trustee or examiner has been appointed in these chapter 11 cases.

II. The Humana Proofs of Claim

8. Before the Petition Date, Humana served as an insurance payor to Debtors Mercy Hospital, Iowa City, Iowa and Mercy Services Iowa City, Inc. Humana asserts that as of the Petition Date the Debtors owed money to Humana resulting from claim overpayments.

9. On August 16, 2023, the *Notice of Chapter 11 Case* [Docket No. 113] (the “Chapter 11 Commencement Notice”) was filed. The Chapter 11 Commencement Notice included the general claims bar date of October 16, 2023 (the “Bar Date”).

10. On August 18, 2023, the certificate of service for the Chapter 11 Commencement Notice was filed [Docket No. No. 127]. The recipients identified thereon include two P.O. box addresses for Humana affiliates that are used for the submission of insurance claim documentation. Humana’s general mailing address is Humana, Inc. 500 W. Main St. Louisville, KY 40202 and is set forth on Humana’s website under the “Contact Us” section.

11. Accordingly, Humana asserts that it did not receive proper notice of the entry of the Chapter 11 Commencement Notice or the Bar Date.

12. Humana first learned of the Bar Date through its outside counsel who reviewed the docket on November 19, 2023, after the Bar Date had passed.

13. On November 22, 2023, Humana sent two proofs of claim (the “Humana POCs”) by Federal Express overnight delivery to Epiq Corporate Restructuring, LLC (“Epiq”), the Debtors’ claims agent, which were received by Epiq on November 24, 2023. Copies of the Humana POCs are attached as Exhibit 1 to the Proposed Order.

RELIEF REQUESTED

14. By this Motion, the Debtors respectfully request the entry of the Proposed Order: (a) deeming the Humana POCs received by Epic to be timely filed pursuant to Bankruptcy Rules 3002(c)(6) and 3003(c)(3); and (b) to the extent necessary, extending the Bar Date until November 24, 2023, solely with respect to Humana, so as to permit the Humana POCs to be timely filed.

15. The Debtors and Humana have agreed to the entry of the Proposed Order and stipulated to its contents.

BASIS FOR RELIEF

16. Section 502(a) of the Bankruptcy Code provides that all proofs of claim filed under section 501 are deemed allowed unless objected to. *See* 11 U.S.C. § 502(a). A proof of claim may be objected to on the ground that it “[wa]s not timely filed, except to the extent tardily filed as permitted . . . under the Federal Rules of Bankruptcy Procedure. 11 U.S.C. § 502(b)(9).

17. Bankruptcy Rule 3003(c)(3) provides that “[t]he court shall fix and for cause shown may extend the time within which proofs of claim or interest may be filed. Notwithstanding the expiration of such time, a proof of claim may be filed to the extent and under the conditions stated in Rule 3002(c)(2), (c)(3), (c)(4), and (c)(6).” FED. R. BANKR. P. 3003(c)(3). Bankruptcy

Rule 3002(c)(6) in turn provides that the court may extend the time to file a proof of claim, “before or after the expiration of the time to file . . . if the court finds that the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim.” FED. R. BANKR. P. 3002(c)(6).

18. In addition, the Court has the authority to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of” the Bankruptcy Code, 11 U.S.C. § 105(a), and to “approve a compromise or settlement” after notice and a hearing. FED. R. BANKR. P. 9019(a).

19. In light of circumstances described above and in the Proposed Order, and the desire of both the Debtors and Humana to avoid unnecessary litigation regarding the timeliness of the Humana POCs, the Debtors and Humana have stipulated to the facts and agreed to the treatment of the Humana POCs set forth in the Proposed Order.

20. The resolution embodied in the Proposed Order, deeming the Humana POCs to be timely filed, accords with the provisions of Bankruptcy Rules 3002(c)(6) and 3003(c)(3) and section 502 of the Bankruptcy Code.

NOTICE

21. The Debtors will provide notice of the Motion to: (a) the U.S. Trustee; (b) counsel to the Creditors’ Committee; and (c) all parties entitled to notice pursuant to Local Rules 2002-1 and 2002-2. The Debtors submit that no other or further notice is necessary under the circumstances.

NO PRIOR REQUEST

22. No previous request for the relief sought herein has been made to this or any other court.

WHEREFORE, the Debtors respectfully request that the Court enter the Proposed Order attached as **Exhibit A** hereto, deeming the Humana POCs to be timely filed, and grant such other or further relief as the Court may deem just and proper.

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Dated: Tuesday, December 5, 2023
Cedar Rapids, Iowa

Respectfully Submitted,

/s/ Roy Leaf

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Counsel for Debtors and Debtors-in-Possession

Certificate of Service

The undersigned certifies, under penalty of perjury, that on this December 6, 2023, the foregoing document was electronically filed with the Clerk of Court using the Northern District of Iowa CM/ECF and the document was served electronically through the CM/ECF system to the parties of this case

/s/ Roy Leaf